

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

**IN RE: ETHICON, INC. PELVIC REPAIR)
SYSTEM PRODUCTS LIABILITY LITIGATION)
)
)
**THIS DOCUMENT RELATES TO ALL CASES)
)****

MDL NO. 2327

**PRETRIAL ORDER # 284
(ORDER APPOINTING CATHY YANNI AS SETTLEMENT
MASTER FOR PRIVATE SETTLEMENT AGREEMENTS
BETWEEN ETHICON AND CERTAIN
PLAINTIFFS' COUNSEL)**

Bertram & Graf, L.L.C. (“Plaintiffs’ Counsel”) has entered into a separate Confidential Settlement Agreement (the “Settlement Agreement”) with Ethicon, Inc. and related entities defined by agreement as “Ethicon” to resolve the claims related to the implantation of Ethicon Pelvic Mesh Products (as defined in the Settlement Agreement). Under the provisions of the Settlement Agreement, Plaintiffs’ Counsel has agreed to seek the approval of this Court to appoint a Settlement Master to perform certain defined functions related to the administration and implementation of the Settlement Agreement. Plaintiffs’ Counsel believes that Cathy Yanni is well-qualified to perform these and other functions discussed below.

Accordingly, Plaintiffs’ Counsel request, pursuant to the Court’s inherent case management powers, the appointment of Cathy Yanni to assist in the administration and implementation of their settlement with Ethicon, with the authority to:

- Determine that the calculation, allocation, division and distribution of settlement payments among the claimants pursuant to the terms of the Settlement Agreement provides for fair and reasonable compensation for each client based on the facts and circumstances of this litigation, including the risk to all parties of litigation, the cost, the time delay, the medical

evidence, the science, the compensation circumstances, and the inherent risk of litigation generally;

- Serve as mediator to facilitate the resolution of any disputes that may arise related to the categorization and processing of claims under the terms of the Settlement Agreement;
- Serve as arbitrator in binding arbitration for any insurance companies or other third-parties who agree in writing with Plaintiffs' Counsel to submit any disputes regarding whether or not health care coverage and reimbursement claims fall within the scope of the litigation and therefore subject to insurance liens or subrogation rights, and if so, the amount of such liens under terms of the applicable agreement between counsel and the insurer;
- Serve as mediator of claims as jointly requested by Plaintiffs' Counsel and Ethicon; and
- As agreed to by Plaintiffs' counsel and their clients, serve as the final and binding arbitrator on any and all Appeals asserted by claimants to the settlement allocation

Ethicon does not oppose Plaintiffs' Counsel's request. The Court, pursuant to its inherent authority, and having considered the request, and cognizant of the important public policy of encouraging settlement among litigating parties, hereby issues the following Order.

IT IS ORDERED THAT:

1. Cathy Yanni, JAMS, Two Embarcadero Center, Suite 1500, San Francisco, CA 94111, is hereby appointed as the Settlement Master for the administration of the settlement reached between Bertram & Graf, L.L.C. and Ethicon, related to the implantation of Ethicon Pelvic Mesh Products (as defined in the Settlement Agreement).
2. The duties of the Settlement Master shall be as set forth in the Settlement Agreement entered into between Plaintiffs' Counsel and Ethicon. A purpose of this Order is to provide all parties and their counsel with notice of the availability of the Settlement Master to assist in the process of settling claims related to Ethicon Pelvic Mesh Products.

3. In furtherance of the fair and efficient administration and implantation of the settlements, the Settlement Master may have *ex parte* communications with the parties to the Settlement Agreement, Plaintiffs' Counsel and their clients, Ethicon and its counsel, or the Court, and such *ex parte* communications shall not be deemed to have waived any attorney-client privileges.
4. The Settlement Master shall be compensated privately as specified respectively in the Settlement Agreement or by agreement with the Settlement Master. The Court will approve all compensation made to the Settlement Master.
5. Subject to approval and Order of the Court, any firm settling claims against Ethicon related to its pelvic repair system products may engage the Settlement Master to perform the duties as set forth in that party's settlement agreement. When so approved by the Court, this Order shall apply.
6. An affidavit by the Settlement Master has been submitted and is attached hereto.
7. The Settlement Master shall report to the Court on a quarterly basis or as requested by the Court.
8. The Proposed Order Appointing Cathy Yanni as Special Master for Private Settlement Agreements Between Ethicon and Certain Plaintiffs' Counsel by Certain Plaintiffs [ECF No. 5103] be **STRICKEN** from this Court's docket.

The Court **DIRECTS** the Clerk to file a copy of this order in 2:12-md-2327 and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:18-cv-00374. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently removed or transferred to this court, a copy of the most recent pretrial order will be

provided by the clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: March 1, 2018



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

IN RE: ETHICON, INC.
PELVIC REPAIR SYSTEM
PRODUCTS LIABILITY LITIGATION

MDL Docket No. 2327
The Hon. Joseph R. Goodwin

This Document Relates to All Cases

AFFIDAVIT OF CATHY YANNI

STATE OF CALIFORNIA)
) ss.:
COUNTY OF SAN FRANCISCO)

CATHY YANNI, being duly sworn, deposes and says:

1. I am an attorney at law licensed to practice law in the state of California. I am in good standing.
2. I was admitted to the California Bar in December 1982. In 1994, I became a Discovery Referee for the Superior Court of San Mateo County. I left that position in December 1997 to join JAMS in 1998. I have been a full-time neutral with JAMS, San Francisco, from 1998 to the present.
3. Over the past 18 years, I have acted as a Special Master, mediator or arbitrator in over 10,000 matters. I was appointed by the Hon. Joseph R. Goodwin to act as the Special Master for certain private settlement agreements between AMS, Covidien, C.R. Bard, Boston Scientific, Coloplast and Ethicon and certain Plaintiffs' counsel (2015 to the present).

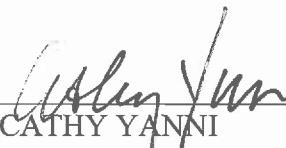
4. Recently, I was appointed Settlement Special Master for the *In Re: National Prescription Opiate Litigation* by The Hon. Dan Polster, US District Court for the Northern District of Ohio.
5. Prior appointments include:
 - Special Master for the *Abilify MDL* by The Hon. M. Casey Rodgers, US District Court for the Northern District of Florida, following the joint recommendation of the plaintiffs and defendants settlement committee.
 - Settlement Special Master for *Medtronic Infuse* by The Hon. John D. Minton, Kentucky Supreme Court (2016).
 - Special Master by The Hon. David A. Katz, US District Court for the Northern District of Ohio, for *In re: DePuy Orthopaedics, Inc. ASR Hip Implant Products Liability Litigation*.
 - Settlement and Discovery Special Master by The Hon. Dan Polster, US District Court for the Northern District of Ohio, in *Gadolinium Contrast Dyes Product Liability Litigation*.
 - Special Master by The Hon. Richard Kramer, Superior Court of California, San Francisco County by agreement of the parties for the JCCP, *Gadolinium Contrast Dyes Product Liability Litigation*.
 - Special Master by agreement of the parties for the *St. Jude Riata Lead Wire Medical Device Litigation*
 - Special Master by agreement of the parties for *Kelly v. Xoft*, for claims arising out of alleged tungsten migration used in breast cancer treatment.
 - Special Master by The Hon. Wynne Carvill, Superior Court of California, Alameda County for the *Medtronic Infuse Litigation*.
 - Special Master in the JCCP, *PPA Consolidated Cases* by The Hon. Anthony Mohr, Superior Court of California, Los Angeles County.

- Federal Mediator in the *Baycol MDL* by The Hon. Michael J. Davis, US District Court for the District of Minnesota.
- Settlement Special Master by agreement of the parties in the *Bextra MDL* and the *Ortho Evra MDL*.
- Settlement Special Master by agreement of the parties in the *Zicam I and II MDL*.
- Settlement Special Master in the *Zyprexa I and II MDL* by The Hon. Jack Weinstein, US District Court for the Eastern District of New York.
- Federal Mediator in *Silicon Gel Breast Implant Litigation* by The Hon. Denise Hood, US District Court for the Eastern District Michigan.

6. In 2016 I was recognized as an “ADR Champion” by the National Law Journal. In 2014 and 2015, I was honored for being a Woman Leader in the Law, *ALM Publications*. In 2013 I was named a *Daily Journal* Top Master. I was recognized by the *Daily Journal* as a Top 50 California Neutral in 2003 to 2005 and 2010 to 2012, a Top 40 California Neutral in 2007 and 2008, and a Top 30 California Neutral in 2006. I have an “AV Preeminent” rating with Martindale-Hubble.

7. I have thoroughly familiarized myself with the issues involved in the case captioned above, as a result of my knowledge of that case, I can attest and affirm that there are no grounds for disqualification that would prevent me from serving as a Special Master in the above captioned matter. I have reviewed the pleadings, medical information and scientific information pertaining to mesh cases generally and specifically as it relates to the litigation involving Ethicon, Inc. manufactured products. I will use the information gathered and my experience in performing my duties as Special Master.

I declare under penalty of perjury the foregoing to be true and correct. Executed at San Francisco, CALIFORNIA on February 27, 2018.



CATHY YANNI